

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT ELECTRIC COMPANY :
d/b/a NATIONAL GRID LAST RESORT SERVICE :
ACQUISITION PLAN FOR THE PERIOD : Docket No. 3605
BEGINNING MARCH 1, 2006 :

REPORT AND ORDER

I. Background

The 2002 Amendments to the Utility Restructuring Act (“URA”) require electric distribution companies, such as Narragansett Electric Company d/b/a National Grid (“NGrid” or “Company”) to provide Last Resort Service (“LRS”) to any customers who have left standard offer for any reason and are not otherwise receiving electric service from nonregulated power producers.¹

Rather than approving the actual LRS rates, the Public Utilities Commission (“Commission”) has been granted the authority by the General Assembly to approve a LRS acquisition plan, specifically, the acquisition procedure, the pricing options sought and the term of service. As long as NGrid complies with an approved LRS acquisition plan, it is entitled to recover its costs associated with providing LRS.²

On May 11, 2005, the Commission approved NGrid’s procurement plan for the period September 1, 2005 through February 28, 2006 for all customers, with an option for NGrid to procure power for residential customers for additional periods if the average market price fell below certain specified levels. To better match the competitive market NGrid would procure power for non-residential customers for only the first six month period. In accordance with the approved Acquisition Plan, NGrid entered into a six-

¹ R.I.G.L. § 39-1-27.3(c) (2002).

² R.I.G.L. § 39-1-27.3(c) (2002).

month all requirements, cost inclusive, load following contract for LRS for residential and non-residential customers. No final responsive bids were received for additional periods for residential customers. As a result, in accordance with the Acquisition Plan, NGrid did not procure power beyond six months for LRS customers. Such procurement is the subject of this order.

Under R.I.G.L. § 39-1-27.3(c), the Commission is not required to conduct a full hearing regarding a proposed Acquisition Plan for each procurement and NGrid may continue to procure power under the Acquisition Plan approved in this docket. However, “the Commission may periodically review the acquisition plan to determine whether it should be prospectively modified due to changed market conditions.”³ To determine whether the market conditions have changed since the Commission’s May 2005 decision in this docket, NGrid was ordered to file with the Commission, by November 1, 2005, an assessment of the market as it exists at the time the procurement process would need to commence. The Division of Public Utilities and Carriers (“Division”) was required to provide the Commission with its position by December 1, 2005.

II. Narragansett’s Market Assessment

On November 1, 2005, NGrid filed a Market Assessment, indicating that “based on its assessment of the New England wholesale and Rhode Island competitive retail markets and discussions with the Division...the Company recommends that it continue to procure LRS under the Current Acquisition Plan approved by the Commission.”⁴ However, there were two proposed changes: (1) to only procure LRS power for one period for each of the customer groups; and (2) to procure for an 8-month period March

³ R.I.G.L. § 39-1-27.3(c) (2002).

2006 through October 2006 rather than a six-month period. The rationale for the former change included the volatility of the wholesale energy market. The rationale for the latter change was to time the next procurement to coincide with Massachusetts' procurement of its Basic Service. Therefore, all things being equal, NGrid would propose future procurements to span six-month periods. Under the proposal, the Rhode Island procurement will not be a part of the Massachusetts procurement, but will be issued simultaneously in order to make it easier for suppliers to bid the smaller Rhode Island load.⁵

Additionally, in response to requests from various state regulatory commissions, the Company filed a plan for the procurement of LRS in the event there are no or insufficient qualified bidders in response to the next procurement. The plan was filed under seal and given preliminary confidential treatment under Commission Rule of Practice and Procedure 1.2(g)(2). As its basis for such treatment, NGrid maintains that the Contingency Plan contains "commercially sensitive market information, the disclosure of which could affect the Company's ability to negotiate competitive terms with its wholesale suppliers."⁶

In arriving at its conclusion, NGrid reviewed the following seven aspects of the market: (1) wholesale energy market trends; (2) lessons learned from previous RFPs; (3) wholesale market rule changes approved and implemented since the last procurement; (4) anticipated wholesale market rule changes that may become effective during the period covered by the next solicitation; (5) recent procurement practices of other New England

⁴ Narragansett Electric Last Resort Service Acquisition Plan November 2005 Market Assessment, filed November 1, 2004 ("Market Assessment"), p. 1.

⁵ Id. at 1-2.

utilities; (6) changes in the number of customers taking competitive retail supply in Rhode Island; and (7) changes in the number of customers enrolled in LRS or the quantity of load to be served.⁷

First, Narragansett summarized recent wholesale market trends, noting that the clearing price in the wholesale energy spot market has shown an upward trend over the last few years. Narragansett opined that this trend will continue.⁸ Second, Narragansett indicated that the main lesson it has learned from previous RFPs is that suppliers have been unwilling to provide pricing beyond six months due to the volatility of the LRS customer base and uncertainty in the wholesale energy market prices.⁹ Third, Narragansett summarized recent and anticipated market rule changes. Narragansett indicated that any changes that could affect costs have been addressed in the power supply contract and put responsibility for any of those costs on suppliers with the exception of anticipated LICAP charges during October 2006. The Company proposes to pay these actual costs separate from the energy costs.¹⁰ Fourth, Narragansett indicated that after a review of RFPs that have been issued by its affiliates and other New England distribution companies since the June 2005 LRS solicitation in RI, the Company believes that the process approved by the Commission in May still represents the best practices for the procurement of LRS for the next six months.¹¹ Fifth, Narragansett indicated that the number of customers taking competitive supply since April 2005 has increased by 3%, indicating both a willingness of LRS customers to review competitive offers and move

⁶ Confidential Filing (Last Resort Service Procurement Contingency Plan) and Filing Letter dated November 1, 2005, pp. 1-2. See also R.I. Gen. Laws § 38-2-2(4)(A)(II)(B).

⁷ Id. at 2.

⁸ Id. at 2-3.

⁹ Id. at 3.

¹⁰ Id. at 4-5.

¹¹ Id. at 6.

back into the market and the ability of competitive suppliers to compete against the LRS prices currently in effect.¹² Sixth, Narragansett indicated that the number of customers taking LRS has decreased 4% since the last filing in May 2005 and that the load has increased by 17%, likely due to the record loads recorded during the summer 2005.¹³ Finally, Narragansett reiterated that as part of its routine review of all contracts, it has made changes to clarify terms, and has reserved the right to negotiate specific contract changes with the suppliers, but will ensure that any changes do not shift risks or obligations described in the Acquisition Plan to customers.¹⁴

III. Division's Recommendation

On November 30, 2005, the Division submitted a Memorandum of Stephen Scialabba, its Chief Accountant. Mr. Scialabba summarized Narragansett's filing and recommendations. He indicated that the Division agrees that the Last Resort Service procurement should continue in the manner proposed in Narragansett's November 1 filing." In discussing the changes proposed by National Grid, Mr. Scialabba concurred that such changes were reasonable.¹⁵

IV. Commission Findings

On December 22, 2005, at an open meeting, the Commission considered the filings made by NGrid and the Division and approved NGrid's proposal to procure LRS for customers in accordance with the Acquisition Plan approved in this docket in Order No. 18250 (issued May 24, 2005). The Commission finds that, based on NGrid's market assessment and the Division's recommendation, the Acquisition Plan will provide power

¹² Id. at 6.

¹³ Id. at 6-7.

¹⁴ Id. at 7.

¹⁵ Division's Memorandum, filed November 30, 2005.

supply contracts which are in the best interest of the residential and non-residential ratepayers who are current or future purchasers of electricity through the LRS supply.

Further, after review of NGrid's proposed Contingency Plan, the Commission finds this alternative process to be in the best interest of ratepayers in the event there are insufficient qualified bidders resulting from the RFP process. Unfortunately, due to close proximity of the end of the procurement process and the first effective date of usage under new contracts (March 1, 2006), in the event the Contingency Plan must be implemented, there will be insufficient time to provide 30 days notice to customers of the March 2006 LRS rate. Therefore, the Commission found that good cause exists under R.I. Gen. Laws § 39-3-12 to waive the 30 day notice rule in the event the Contingency Plan must be implemented. Non-residential customers shall be given at least 21 days notice of the retail LRS rate. Residential LRS customers will be unaffected because they still pay the Standard Offer Service rate.

In the event the Company wishes to propose changes to either the Acquisition Plan or the Contingency Plan during the 8-month period March 1, 2006 through October 31, 2006, the Company shall provide such proposed changes to the Commission for its review and approval at least 10 days prior to the proposed effective date of the changes. In the event this is not possible, the Company may proceed with discretionary action, subject to the ability of the Commission to review the reasonableness of such actions after the fact.

Although not specifically addressed by the parties, the Commission also finds that continuation of the agreement between the parties in Docket 3444, as approved in Commission Order No. 17203 and Order No. 17903, is a reasonable approach to the issue

of the Commission's right to review the prudence of NGrid's discretionary actions under the approved Acquisition Plan as well as to review NGrid's actions for compliance with the Plan.¹⁶

Accordingly, it is hereby

(18495) ORDERED:

1. Narragansett Electric Company d/b/a National Grid's proposal to continue following the Last Resort Service Acquisition Plan approved by the Commission in Order No. 18250 for the purposes of procuring power for residential and non-residential customers for the eight-month period, March 1, 2006 through October 31, 2006 in accordance with the terms of the Acquisition Plan as amended in its November 1, 2005 filing is hereby approved.
2. The Contingency Plan filed by Narragansett Electric Company d/b/a National Grid on November 1, 2005 is hereby approved. In the event implementation of the Contingency Plan is necessary, Narragansett Electric Company d/b/a National Grid shall notify the Commission in writing no later than February 1, 2006.
3. The Commission finds that good cause exists under R.I. Gen. Laws § 39-3-12 to waive the 30 day notice rule in the event the Contingency Plan must be

¹⁶ Under the agreement, Narragansett may exercise discretion. However, "...Narragansett's discretionary actions under an approved LRS acquisition plan should also be subject to an after-the-fact prudence review. Such a review would most likely be prompted if Narragansett's discretionary action, such as a decision to accept a non-conforming bid, had an adverse impact on the ratepayers. The review would be based on a review of the facts before Narragansett at the time it exercised its discretion. The letter concluded with the statement that, "with these limitations, Narragansett agrees that, notwithstanding the notification to the Division and Commission...the Commission retains the authority to conduct a retrospective review of the exercise of Narragansett's discretion undertaken under an approved plan. Narragansett's actions would

implemented. Customers shall be provided at least 21 days notice of the new Last Resort Service retail rate.

4. In the event there are any proposed changes to the Procurement Plan or Contingency Plan during the 8 month period March 1, 2006 through October 31, 2006, Narragansett Electric Company d/b/a National Grid shall file such proposed changes with the Commission for its review and approval no later than 10 days prior to the proposed changes taking effect.
5. On or before June 1, 2006, Narragansett Electric Company shall file with the Commission a Market Assessment or proposed Last Resort Service Acquisition Plan for review.
6. Within thirty (30) days from Narragansett Electric Company's filing of a Market Assessment or proposed Last Resort Service Acquisition Plan, the Division shall file with the Commission a recommendation for review.
7. The Commission shall have the right to review Narragansett Electric Company's Last Resort power supply contracts for compliance with the approved Acquisition Plan, and to review the prudence and reasonableness of any discretionary actions taken by Narragansett under the approved Acquisition Plan.
8. Narragansett Electric Company and all Parties shall comply with all other findings and instructions contained in this Report and Order.

also be subject to review for compliance with the Plan approved by the Commission." July 17, 2002 Letter from the parties to the Commission in Docket No. 3444.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO AN OPEN
MEETING DECISION ON DECEMBER 22, 2005. WRITTEN ORDER ISSUED
JANUARY 11, 2006.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Robert B. Holbrook, Commissioner

Mary E. Bray, Commissioner